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Education and Local Government Interim Committee

64th Montana Legislature

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TO: ELG Members
FROM: Leanne Kurtz, ELG Research Analyst
DATE: September 25, 2015
RE: Assistance to local fire agencies

One expected outcome of the SJR 21 study of local fire and emergency services is for the Education and Local Government Interim Committee members to develop a broad understanding of the structure, function, and resource needs of local government fire protection agencies, including fire companies, rural fire districts, fire services areas, and county and municipal fire departments. The agencies are provided for in Title 7, chapter 33 of the Montana Code Annotated, various parts of which assign specific authority, jurisdiction, and funding mechanisms to the agencies.

Outside of this statutory construct, various programs and resource opportunities are in place to help local agencies fulfill their fire protection and emergency service duties and to generate financial assistance or emergency funding. These include the Department of Natural Resources and Conservation's (DNRC) County Cooperative Fire Program, DNRC's County Assist Teams (CAT), the federal Volunteer Fire Assistance (VFA) program, Federal Emergency Management Agency (FEMA) assistance, mutual aid, and emergency levy authority. Other states offer grants and training for fire and emergency medical services, which may be examined in more depth if the committee is interested in that type of information at a future meeting.

County Cooperative Program

A county's fire protection responsibilities are outlined in 7-33-2202, MCA. Among the requirements are that the county governing body shall either provide direct fire protection on land in the county that is not in a wildland fire protection district or under the protection of a municipality, state agency or federal agency or shall enter into an agreement for wildland fire protection from a recognized agency. It is through this requirement that counties enter into Cooperative Fire Control Agreements and Cooperative Equipment Agreements with DNRC. The County Cooperative Fire Program is designed to bolster counties' initial attack capabilities with state-provided equipment, training, and organizational assistance. Technical fire advisors and air support may also be provided.

A key component of the program is the loaning of state and federally-owned equipment--including engines, pumps, water tenders, and fire trucks, and trailers used for communications equipment and generators--to the county. In exchange, the county agrees to provide initial

attack coverage on all land within the county boundaries that is not otherwise protected and remain a presence on extended incidents.

Each of the state's 56 counties has entered into a cooperative agreement with DNRC.

County Assist Team (CAT)

According to DNRC's website, the "CAT is an all hazard Incident Management team that was originally formed in 1990 to help rural and volunteer fire departments with wildfires when activity stretches the local initial attack forces beyond their capability." The team consists of firefighters as well as farmers and ranchers, representatives of local governments, the business community, and Forest Service and Bureau of Land Management employees. A reported strength of the team is that its members live in the communities they serve, so they understand the communities and are trusted by the residents.

Goals, as listed on DNRC's website, include:

- Provide relief and assistance to local emergency responders when an incident becomes too large or complex to manage on their own.
- Increase the response capacity of the local jurisdiction by providing incident management capabilities and access to additional resources.
- Provide a quick response to rural areas that have limited resources.
- When not involved with an incident, provide training opportunities for local fire and emergency responders.

The annual weekend-long "CAT Camp" is a comprehensive training opportunity offered by the team to volunteer fire departments. A mock incident allows participants to practice incident organization skills, equipment operation, fire line building, and mop-up. Some of the training involves exercises using live fire.

Volunteer Fire Assistance Program

Through the Volunteer Fire Assistance Program (VFA), rural volunteer fire departments may apply through DNRC for federal cost-share grants to be used for training, equipment, and organizational assistance. The impetus for creation of the VFA in 1972 was a recognition that rural fire departments represent the first line of defense for communities experiencing fire or other hazardous incidents.

Some grant specifics include are listed below.

- Grants are available to communities under 10,000 population. However, if smaller communities group together to apply and the combined population of those communities exceeds 10,000, they continue to be eligible.
- Funds may not be used for normal operational expenses, maintenance, or fire station improvements.

- A non-federal match is required.

Grants funds have been used for assistance in forming rural fire districts and creating community fire plans, as well as for training in both structure protection and wildland fire protection and for equipment purchases.

Federal Emergency Management Agency (FEMA) Fire Management Assistance

Upon approval of a fire assistance grant declaration, which must be requested of FEMA by a state's Governor or Authorized Representative, a local fire entity may, through DNRC, request a FEMA Fire Management Assistance grant for help meeting the entity's fire cost obligations. If a grant is approved, the entity may receive reimbursement of 75% of eligible fire costs.

In order for a grant of this nature to be authorized, FEMA must approve a state's declaration request based on criteria such as fire conditions, threat, and resource availability and a state must demonstrate that the costs of the fire or fires declared and for which grant assistance is being applied meet certain cost thresholds. The individual fire cost threshold is the greater of \$100,000 or five percent x 1.30 (regularly adjusted for inflation) x the state population. The cumulative cost threshold is the greater of \$500,000 or three times the five percent x 1.30 x the state population.

Mutual Aid

All local fire agencies authorized in Title 7, chapter 33 of the Montana Code Annotated have specific statutory authority to enter into mutual aid agreements with other local fire agencies, local governments, federal agencies, or private organizations. As stated in the Northern Rockies Coordinating Group's 2015 document entitled *Mobilization of Local Government Firefighting Resources*, "[m]utual aid resources are generally a fire department to fire department mobilization with the terms, limits, costs (if any), procedures, and operating guidelines determined between the requesting and receiving fire entity."

Mutual aid may be requested and mobilized for initial attack and extended attack and for ongoing assistance during longer-duration incidents. The agreements themselves, as well as operating plans, manuals, and other agreements dictate how and when mutual aid resources are mobilized and demobilized.

Section 10-3-209, MCA, provides that a political subdivision that has not entered into a mutual aid agreement may request assistance from another public or private agency.

Emergency Tax Levy

Another funding mechanism available to a local governments experiencing a severe incident is the emergency tax levy, provided for in Title 10, chapter 3, part 4. A local jurisdiction that has prepared a local or interjurisdictional disaster and emergency plan and in which an emergency proclamation or disaster declaration is issued shall estimate the expenditures associated with

the incident and shall levy a tax to cover the expenditures, not to exceed 2 mills on the taxable valuation in the jurisdictional area.

Local fire agencies in Montana may also take advantage of loans or additional federal grants or private sector funding. In some states, local fire agencies may charge fees and in some cases, fines from various traffic or other offenses may be directed toward local agencies as a funding supplement. Legislation would be necessary for either of those alternatives to be possible in Montana.

Education and Local Government Interim Committee
SJR 20 Panel Discussion, 09/25/15

Questions for Panelists

1. Are all of the public roads (whether or not they cross state trust land) in the county you represent identified and mapped? Of those roads, what portion are dedicated county roads that the legal status as a county road is known and what portion whose status is unknown?
2. Is your county engaged in identifying all possible county roads and designating them as such?
 - a. Can you estimate the time and resource dedication that would be required to accurately identify, designate, and map all of the county roads in the county you represent?
3. How are county roads identified and the locations made available in the county you represent (i.e. road books only, electronic means, maps)? If a person wants to see where the roads are located in your county, do they examine road books, look at maps, or some combination?
4. Do you see a need for a statewide program or some kind of state assistance for identification and mapping of all county roads, whether or not they cross state trust land?
5. Has the county you represent been actively applying for historic rights-of-way on state trust land? If not, why?
6. Where is your county in the process of acquiring historic rights-of-way on state trust land?
7. What have been the impediments to completing the process? Identification of roads? Lack of funds? Disagreement with the process? Statutory language?
 - a. If your county has completed the process, what were the major impediments? How did you pay for the easements?
8. What have been the problems in your county associated with lack of clear legal rights-of-way where county roads cross state trust land?
9. If state assistance was to be made available to counties to compensate the trust beneficiaries for easements, would the county you represent take advantage of it? How should the counties that have already paid full market value for the historic rights-

of-way be compensated?

10. Has the county you represent considered loans or payment schedules to help budget for the expense of acquiring the easements?
11. Do you see opportunities for counties to partner with utilities to share the cost of acquiring easements?
12. What are your suggestions for this committee as it continues the study? Do you have specific ideas for possible resolution to these issues?